

EXHIBIT J

COP

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SAN FRANCISCO, CALIFORNIA

In Re)	Date: July 23, 2007
)	
Ifran Ali)	File Number: A 70 149 531
)	
Respondent.)	In Bond Proceedings
)	


MEMORANDUM AND ORDER

The respondent is a native and citizen of Fiji. He is seeking to adjust his status based on a petition filed by his U.S. citizen wife. He was convicted in 2000 for grand theft, which is clearly a crime of moral turpitude as it is a theft offense. He has also been convicted for false personation in violation of Cal. Penal Code §529.3. That section makes it a crime to falsely personate another and do an act which might subject the other to a liability or gain a benefit for the impersonator.

The BIA has held that crimes involving fraud are generally to be considered crimes of moral turpitude. *Matter of Adetiba*, 20 I&N Dec. 506, 507-08 (BIA 1992). The Supreme Court of California has held that Penal Code section 529.3 requires proof of a deliberate effort to pass oneself off as another person. "One does not violate paragraph 3 by happening to resemble another person. Rather, one must intentionally engage in a deception that may fairly be described as noninnocent behavior, even if, in some instances, it might not stem from an evil motive." *People v. Rathert*, 24 Cal. 4th 200, 208-09 (Cal. 2000). The Board did not hold in *Matter of S*, 2 I&N Dec. 353 (BIA 1945) that no false statement other than one which constitutes perjury is free of moral turpitude. Rather, the Board held that a conviction under a statute which made false statements a crime regardless of the defendant's mental state did not meet the requirements of moral turpitude. As noted above, the statute at issue here requires proof of an intent to defraud and deceive.

Because section 529.3 requires proof of a deliberate effort to defraud, the court finds that it is a crime of moral turpitude. Respondent therefore stands convicted of two crimes of moral turpitude and is subject to mandatory detention. INA §236(c)(1)(B). The motion for bond redetermination is accordingly **DENIED**.

Serve: Judith Lott, Esq.
Cara Cutler, Esq.



Anthony S. Murry
Immigration Judge

OMB# 1125-0002

Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

**Notice of Appeal from a Decision of an
Immigration Judge**

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):

ALI, Ifran
A70-149-531

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2. I am ☒ the Respondent/Applicant ☐ DHS-ICE (Mark only one box.)

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Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

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